

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. C 06-00556-1 CRB

Plaintiff,

BRIEFING ORDER

v.

GREGORY L. REYES,

Defendant.

The parties are hereby ORDERED to submit preliminary sentencing briefs to the Court. In their briefs, the parties shall discuss which version of the Sentencing Guidelines the Court should apply. Compare U.S.S.G. § 1B1.11(a) (“The court shall use the Guidelines Manual in effect on the date that the defendant is sentenced.”), with id. § 1B1.11(b)(1) (“If the court determines that use of the Guidelines Manual in effect on the date that the defendant is sentenced would violate the ex post facto clause of the United States Constitution, the court shall use the Guidelines Manual in effect on the date that the offense of conviction was committed.”). In addition, the parties shall address the following issues in their briefs: (1) the amount of loss, if any, and the number of victims, if any, id. § 2B1.1(b), and (2) the defendant’s role in the backdating scheme, id. §§ 3B1.1, 3B1.2, 3B1.3. In addition, the parties shall address any other guidelines provision which they contend is relevant to sentencing.

1 The government shall file its opening sentencing brief by September 21, 2007. The
2 defense shall file its brief by October 5, 2007. The government shall reply by October 19,
3 2007. Nothing in the parties' briefs shall be construed as a waiver of any argument or
4 objection that the parties wish to make in their sentencing memoranda in response to the
5 Probation Department's presentence report.

6 **IT IS SO ORDERED.**

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9 Dated: August 29, 2007



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE